**Province of British Columbia**
Ministry of Solicitor General
CORRECTIONS BRANCH

# Electronic Monitoring System

## for Offender Supervision

## *Pilot Project Evaluation*

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# BRITISH COLUMBIA

# ELECTRONIC MONITORING PILOT PROJECT

May, 1989

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# BRITISH COLUMBIA

# ELECTRONIC MONITORING PILOT PROJECT

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# ELECTRONIC MONITORING EVALUATION

## Introduction

In August of 1987, electronic monitoring was first offered to offenders in British Columbia. The Electronic Monitoring System (EMS) using radio frequency technology provides a means of supervising sentenced offenders in the community, confirming their presence by computer. A pilot project was initiated in the metropolitan area of Vancouver to examine the technology and assess its potential usefulness as a tool within the justice system. The B.C. project, the first of its kind in Canada, was modelled on programs in the United States. Initially scheduled to operate for nine months, the project was extended an additional nine months due to the incremental volume of intake. After 12 months, sufficient numbers were processed and the results have been assessed.

The target population for this project has been the sentenced intermittent custody population, i.e. those sentenced for a period of 90 days, with the sentence typically being served on weekends. Electronic monitoring was considered to be a possible alternate means of administering a sentence, which like intermittent, allows

an offender to continue employment and other positive community ties while serving a jail sentence. It has been possible to accommodate this through the existing temporary absence program pursuant to the Prison and Reformatories Act (Canada) and the Correction Act (B.C.) which provides for the release of inmates for the purpose of employment, or education.

The concept of monitoring inmates in the community is consistent with the Canadian Law Reform Commission's recommendations and B.C. Corrections Branch policy regarding "minimal intervention" to maintain the minimum degree of control, supervision and security required to protect the safety of the public and satisfy the intent of the sentence imposed by the court.

The Electronic Monitoring Project was situated in the Vancouver Court Adult Probation Office located on the premises of the Vancouver Pretrial Services Centre (VPSC). VPSC is a 150-bed maximum security remand facility which receives sentenced offenders for classification from a number of court locations. Staff involved with the project received specialized training in the handling and care of equipment and the assessing, selection and monitoring of participants.

Objectives

In order to assess the viability and outcomes of the project, it is necessary to look at the objectives established for the pilot project:

a) to test Electronic Monitoring Systems (EMS) as a means of safely supervising in the community, a selected portion of the current prison population;

b) to establish a viable sanction to serve as an alternative to conventional imprisonment;

c) to establish one strategy by which to forestall and possibly avoid some of the capital costs of housing offenders who will be displaced with the phasing-out of the Lower Mainland Regional Correctional Centre;

d) to become familiar with the technology and to determine the incidence, if any, of technical problems including means of responding to problems quickly and efficiently;

e) to observe and report on the effects of the technology upon offender behaviour;

f) to determine effective and efficient staffing patterns for wider implementation of EMS;

g) to identify suitable categories of offenders to which the technology may be applied;

h) to provide information regarding EMS to the Corrections Branch, the balance of the Criminal Justice System and the general community; and

i) to assess the extent of receptiveness and support for EMS throughout the Corrections Branch, in the balance of the Criminal Justice System and the general community.

All of these objectives are addressed in this evaluation in addition to issues which arose during the course of the project.

## THE TECHNOLOGY

The process of selecting equipment followed the regulations set out by the B.C. Purchasing Commission. A Request for Proposal was issued in June of 1987. Eight responses were received, four were seriously considered and an evaluation committee selected BI/JEMS, (now BI/Peregrine) a consortium comprised of a B.C. based marketing and servicing firm backed by the equipment manufacturer. BI offers continuously signalling radio frequency equipment which is worn in the form of an anklet. A receiver unit installed in the offenders residence receives the radio signal and, using the telephone line, communicates with a central computer. A remote access terminal located within Vancouver Pretrial Services Centre allows for 24 hour monitoring of offenders. Equipment has been leased for the duration of the project.

The project's experience with the technology has been positive. It has proven to be reliable and accurate. Peregrine, the Canadian marketing and servicing representatives have been consistently helpful and supportive.

BI equipment is manufactured in Boulder, Colorado. Presently all equipment repairs are done in Boulder while 24 hour dial in diagnostics are provided by BI in Indianapolis.

NCR provides computer servicing locally; this has been required on one occasion.

Processing the American equipment through Canada customs has resulted in only minor delays.

Equipment Issues

Experience to date has shown that the transmitters are quite sturdy in their construction. On one occasion a client working in a sawmill was struck on the leg by a piece of lumber, leaving a significant bruise. This partially cut through the transmitter strap without damaging the transmitter itself. On another occasion, during the course of a client's work, the transmitter was struck hard enough to crack the case without, however, disrupting the radio signal.

Equipment "down time" has accounted for only 4% of the available equipment days and the majority of this time was due to delays with Canada Customs.

The single most outstanding technical anomaly has been the incidence of false tamper reports (41 in total). This has resulted from an over-sensitivity on the part of the transmitter's tamper sensors. These reports require that staff respond immediately by telephone and attend the residence to check for any evidence of tampering and to reset the device. This has not posed any significant burden due to the frequency of routine checks. While the continuous tamper reporting quality has caused some inconvenience, it also assures that this program will not end up in the same embarrassing situation experienced by some American programs wherein an offender's removal of equipment may go undetected for days, weeks and occasionally months. It is important to note that Michigan State uses a more recent generation of BI equipment and has reported a 95% decrease in false tamper reports.

Overall experience with this equipment has given the program good reason for confidence in its quality and reliability. The few technical difficulties encountered with equipment have not been of the sort which would allow offenders to leave their residences undetected. Problems which were due to circumstances beyond our control (i.e. telephone and electrical power) have been adequately

compensated for by safeguards built into the system hardware. Also, the state-of-the-art in monitoring technology is continually improving; the program is currently using the third generation of equipment developed by this manufacturer in one year. However, experience here and in the U.S.A. has also shown that we cannot be over-confident in the hardware system's abilities and must rely on the vigilance of staff to provide constant human checks over and above that provided by the technology.

Selection of equipment has been perhaps the single most important factor in the entire process of facilitating this project.

Long Distance Telephone Issues

When considering broader geographical implementation of EMS, the major technical issue to be addressed is that of Long Distance Calls and attendant costs. Currently the B.C. Telephone Company offers three systems which allow billing of the program rather than the offender. They are "800 Numbers", "Remote Call Forwarding" and "Foreign Exchange Numbers".

B.C. Telephone is willing to undertake a project to meet the program's needs and those of alarm companies with

a "900 Number" but its implementation will take some time and is contingent on Canadian Radio-television and Telecommunications Commission (CRTC) approval. This would have cost benefits because its main feature would be a minimum billing period of less than one minute and would greatly simplify equipment issues.

## OFFENDER PROFILE

This section will look at the offenders processed during the pilot project. Most data is based on the client profile from August 31, 1987 to August 31, 1988. It is important to note that this period reflects the initial startup of the project. Additional data is provided in some areas to adequately represent the present circumstances of the project.

The initial target population for the project was non-violent offenders anticipating sentences of 90 days or less who would likely receive an intermittent committal to custody.

### Court Locations

The Vancouver Provincial Court was identified as the most likely source of suitable offenders. Introducing new initiatives within the justice system is a cumbersome process and, as a result, intake progressed slowly. In response to the initial low volume of intake, a decision was made to expand the project and offer this service more widely. Commencing in March 1988, EMS was offered to the surrounding suburban provincial courts in Burnaby.

Richmond, New Westminster, Surrey, North and West Vancouver and the county courts in Vancouver and New Westminster. This required liaison with court registry staff, sheriffs and Crown Counsel in addition to probation officers and police in each location.

In order to take part in the project, offenders had to receive "straight time" (continuous) sentences rather than intermittent. The target population was those who otherwise would receive intermittent sentences, therefore in order to facilitate program operation it was necessary to intervene at the pre-sentence stage to have anticipated intermittent sentences dealt with by way of continuous sentences, with a recommendation for EMS. Referrals came from judges, lawyers and individuals. A great deal of education and liaison was necessary to promote the project within the justice system and the community.

Screening and Assessment

All potential candidates were screened to assess their suitability for electronic monitoring. Offenders with a history of violence, previous convictions for assault or currently facing charges of a violent nature were not eligible for the program. Prospective participants were

interviewed as well as family members or others living in the residence. Other residents were interviewed separately to help screen for domestic violence or other domestic circumstances which might have an adverse effect on someone serving their sentence at home. At the same time the physical layout of the residence was assessed to determine optimum equipment placement. Criminal records checks were completed on all referrals and Corrections Branch computerized records checked on those with prior jail or probation histories. Probation officers, bail supervisors and police were contacted where applicable. Employment, student, and other relevant status (i.e. volunteer work, child care responsibilities, etc.) was verified.

It is very conservatively estimated that the time required to assess each referral was three (3) hours, not including court appearances. This includes travel time to the residence, interview of the client and other significant persons and confirmation of records checks.

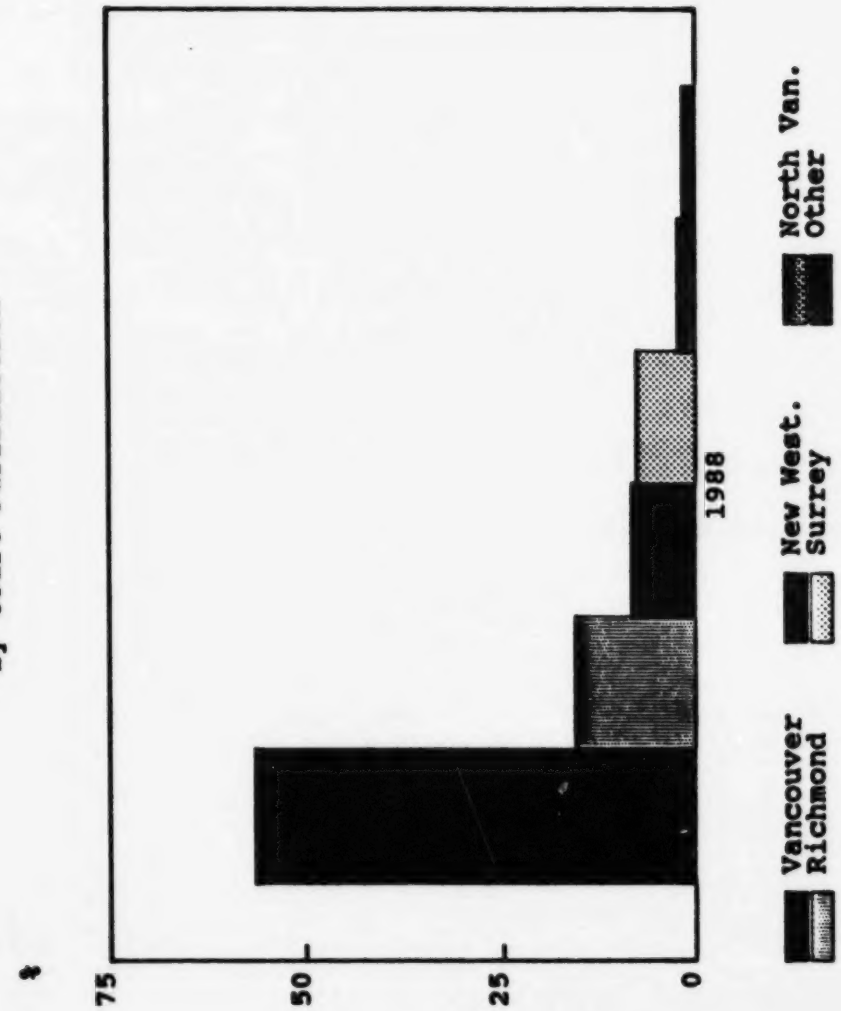
In all, 150 assessments took place between August 1987 and August 1988.

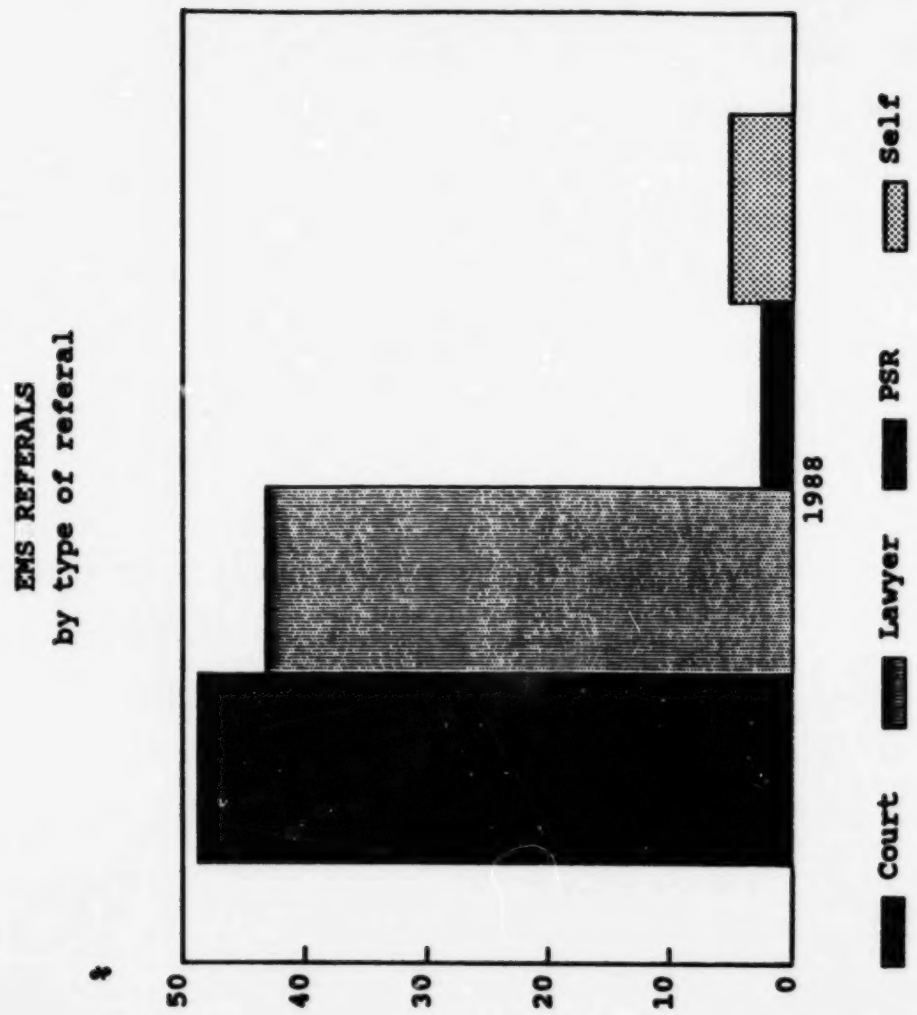
Of these 150 assessments, 56.7% originated in the Vancouver Courts, 16.0% from the Richmond Court, 8.7% from the New Westminster Courts, 8.0% from the Surrey Court,

6.0% from the Burnaby Court, 2.7% from the North Vancouver Court and 1.9% in other jurisdictions such as Delta and West Vancouver (see Graph A).

Cases were initiated at the following courts levels; 90.7% in Provincial Courts, 7.0% in County Courts, and 2.0% in the Court of Appeal.

Assessments could be ordered directly by the court or initiated by others. Court-ordered assessments required the submission of a formal court report, 48.7% of the referrals were court ordered. Lawyer referrals resulted in a memo to Crown Counsel and defence and accounted for 43.4%self referrals 5.3% and 2.7% from probation officers preparing pre-sentence reports (see Graph B). It is important to bear in mind the source of the referrals when considering the acceptability of the project both to the judiciary and the Bar.

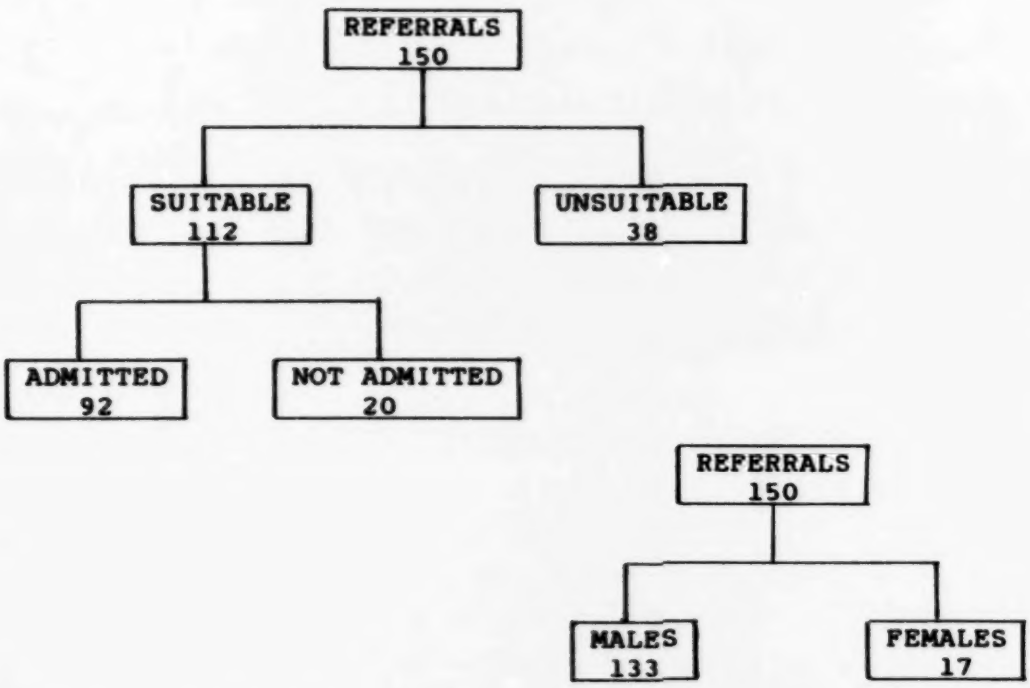

EMS REFERALS
by Court Jurisdiction
%
75
50
25
0
1988
Vancouver
Richmond
New West.
Surrey
North Van.
Other


EMS REFERALS
by type of referal
%
50
40
30
20
10
0
1988
Court
Lawyer
PSR
Self

## Suitable Offenders

As noted in the case flow chart below of the 150 assessments, 92 offenders were assessed suitable and processed through the project. All 92 in the test group completed their sentence successfully. "Success" has been defined as completing their sentence under EMS monitoring and supervision in their residences. Twenty offenders assessed suitable were not admitted to the program due to judicial discretion. In these cases other sentences were imposed.

## EMS Case Flow August 1987 - August 1988



Compliance

Of the 92 people taken on to the project between August 31, 1987 and August 31, 1988, all successfully completed their sentences, under EMS monitoring and supervision in their residences, except one instance where disciplinary action was taken for a breach of the rules. This involved an individual discovered out on his back patio after it had been clearly explained to him that this was not allowed during curfew hours. As a result he failed to earn 3 days remission.[1] This was handled according to normal remission award panel practices.[2]

The 92 cases accounted for 1533 days of EMS residential confinement or the equivalent to 4.2 jail beds per day on an annualized basis. This means that during the test period alone, EMS reduced the prospective average intermittent jail population by 10.5% (the Lower Mainland intermittent population is estimated to be 40 beds daily for 1987/88). (Graph C indicates EMS bed day per month.)

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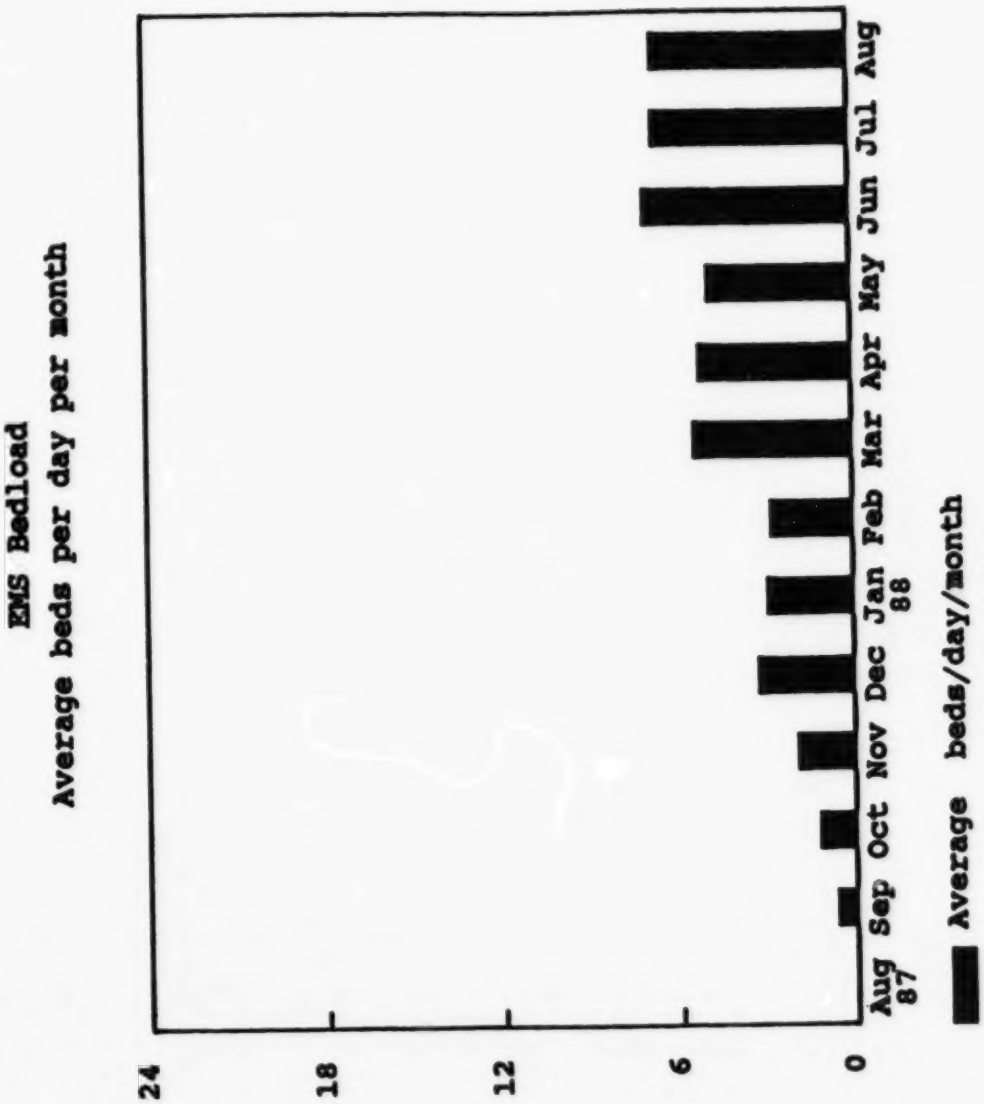
1. Reduction in time served due to industrious behaviour.

2. A remission awards panel is held monthly in each institution to assess individual cases and determine earned remission time.

Graph C


EMS Bedload
Average beds per day per month
24
18
12
6
0
Aug 87
Sep
Oct
Nov
Dec
Jan 88
Feb
Mar
Apr
May
Jun
Jul
Aug
Average beds/day/month

During the Aug '87 - Aug '88 test period, 1.77 operational staff were required to screen, intake and supervise the average 4.2 EMS population, a ratio of one staff member to each 2.2 inmates. It is clear that this staff/client ratio can be made significantly leaner (i.e. more efficient) as the caseload grows.

Unsuitable Offenders

In total, 38 or 25.3% of those assessed were deemed to be unsuitable. Of these, 10 (26.3%) had violent criminal histories, 7 (18.4%) had lengthy criminal histories, 8 (21.1%) had outstanding charges, 5 (13.5%) had unsupportive domestic situations, and 2 (5.3%) were unsuitable due to the nature of their current charge. Of the remainder, 1 was considered psychologically unsuitable, 2 declined to participate, 1 failed to appear for court, 1 had no telephone (a prerequisite for the operation of the equipment), and 1 was deemed unsuitable due to his attitude.

Offences and Sentence Length

The sentence profile of offenders on the EMS project included the following offences:

| | % | Number |
|---|---|---|
| Impaired driving ** | 67.4% | 62 |
| Driving while disqualified | 22.8% | 21 |
| Drug trafficking | 3.3% | 3 |
| Property offences | 2.2% | 2 |
| Person offences | 1.1% | 1 |
| Other | 3.2% | 3 |
| | 100.0% | 92 |

** Impaired Driving Number of Convictions

| | % | Number |
|---|---|---|
| First Offence | 0.0% | 0 |
| Second Offence | 50.0% | 31 |
| Third Offence | 38.7% | 24 |
| Fourth + | 11.3% | 7 |
| | 100.0% | 62 |

Sentence length of participating offenders is portrayed in Graph D.

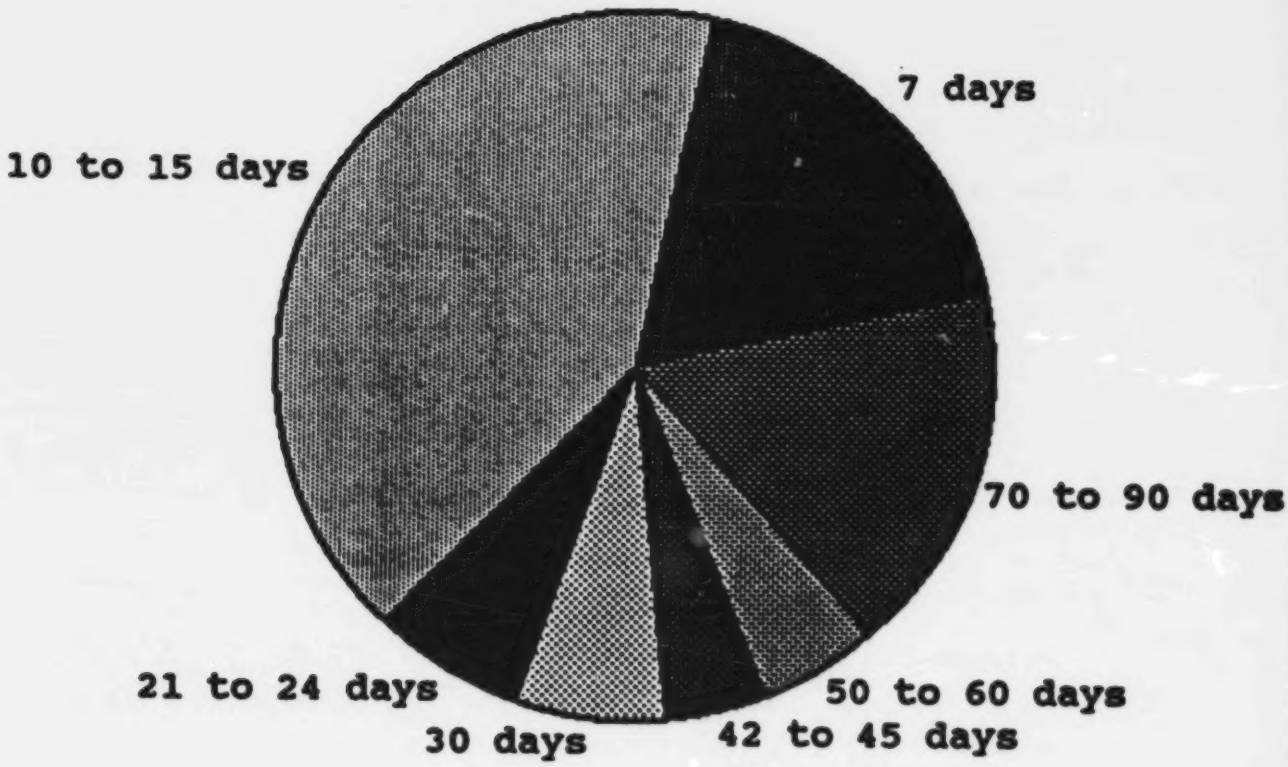
By applying the experience of the pilot project to the provincial intermittent population one can forecast that EMS has the potential for significant impact, if applied province-wide.

Based on EMS pilot results it is estimated that EMS could reduce the intermittent jail population (currently

1 50 ) by approximately 70%. Province-wide application could potentially further reduce the jail population serving less than 90 days (which includes intermittents) but is largely continuous sentences) by 11.1% overall.

GRAPH D

## EMS Sentence Profile




1988

## IMPACT ON OFFENDERS AND THEIR FAMILIES

The use of Electronic Monitoring technology raises a number of new issues and concerns, particularly relating to the impact on offenders and their families. Introducing technology into a private residence and confining offenders therein resulted in questions from community agencies regarding the concept of, effectively, turning one's residence into a prison, however briefly this may occur. As a result of community concerns, an independent study was conducted by UBC doctoral student, Steven Mainprize to assess the effect of this project on offenders and their families. It is perhaps the most comprehensive research on this subject to date.

The entire report prepared for the Corrections Branch is lengthy, however, the following summarizes Mr. Mainprize's findings:

1) There was only a slight tendency to select affluent offenders, keeping in mind that the voluntary aspect facilitates "self-selection" and may account for this difference.

2) Offenders and their families are able to adapt to the idiosyncrasies of the EMS program, which included sporadic telephone interruptions, in addition to limiting social and child care activities.

3) EMS participation affected offenders in the workplace specifically with regard to concealing equipment. Those people who sought to conceal their participation struggled with complex issues in the workplace. In some cases, however, attitudes toward work were improved as offenders looked forward to going to work -- it was a timeframe during which their movements were not so closely monitored.

4) There is a perception by offenders that EMS is a "more just" alternative than prison. As a result, offenders commonly reported a positive attitude toward the justice system.

5) EMS was perceived by offenders as supportive of alcohol abstinence, resulting in enhanced social relations and income savings. Intermittent weekend sentences in contrast were not viewed as abstinence supportive.

Mr. Mainprize speculates that EMS "avoids or reduces such harmful effects of imprisonment as stigma." It enhances respect for the justice and correctional system. He concludes: "The actual tendency for EMS program participation to change offenders' behavior in the area of their offence is not clear. However, evidence in some areas of behavior indicates that program participation does, in some cases, enhance workplace attitudes and discipline."

In conclusion, Mr. Mainprize's research supports EMS as a "community correctional alternative to imprisonment." On balance he suggests a "favourable overall view of the effects of this EMS program on offenders."

## STAFFING

During the initial stages, 2 1/2 staff were assigned to the project, the Project Director (a probation officer), a principal officer and 1/2 time clerical support.

Due to the fact that the format of the project required routine checks of offenders and the need to respond to technical alerts 24 hours a day, back-up staff from within the host institution, Vancouver Pretrial Services Centre, were utilized on an "as required" basis. When the decision was made to extend the project, one additional person, a correctional officer was added to the staff complement.

As of January, 1989, 4 1/2 staff were assigned to the project, 1 probation officer, 1 principal officer, 2 correctional officers and 1/2 time office assistant. In addition to those personnel specifically attached to the EMS project, 12 additional staff members of the Corrections Branch have received specialized training.

Correctional officers presently install equipment on offenders in the institution, calculate curfew information, program the computer and finally escort the offender to his residence where the field monitoring device is attached to

his/her telephone. These duties are carried out throughout most of the lower mainland which necessitates considerable travel time. These activities in addition to routine checks and apprehensions are consistent with the normal duties of correctional officers.

Future Staffing Needs

A number of options must be explored to determine future staffing needs. It must first be recognized that three distinct roles are performed by EMS staff:

1) investigating, assessing, report writing and court liaison which is by legislation a probation officer's function;
2) maintaining security, apprehending and transporting inmates, both on temporary absence or in custody, which is normally a function of correctional officers; and,
3) maintaining the technical security of the program by understanding, interpreting and determining appropriate responses to computer-generated as well as circumstantial information, as it arises.

The third area is perhaps the most important, and experience during the project indicates the necessity of on-site specialization in the area of technical security.

The monitoring, interpretation of data and anticipation of an adequate response requires liaison between field case managers and central monitoring personnel.

Determining the required response to individual situations requires not only a thorough understanding of the technology but also a sound legal understanding of both institutional and community legislation and policy. Ideally, on-site specialization would be provided by a combination of experienced community and institutional staff.

The most important function of the probation officers will be the ongoing education of the Court, Crown Counsel and defence and it is likely that a certain degree of specialization would be desirable, if the program is to be suitably promoted and implemented. Different models of service delivery could be adopted to suit the various regional circumstances throughout the province.

Correctional officers will be required to perform the installation, routine checks, disconnections and

apprehensions. Probation Officers, essential to the project, can fulfill their duties from existing probation offices. Correctional officers however, will need to be dedicated positions which can be supplemented from existing staff on an "as required" basis. Good communication between probation and correctional officers is essential to the project. This is clearly a project which bridges the gap between community and institutional corrections.

Michigan State is perhaps the best example of expanded use of this technology. Michigan operates a state-wide program of electronic monitoring. Using equipment supplied by BI, they have 1200 units and supervise an average of between 900 - 1000 offenders per day, a utilization rate of over 75%. Michigan has offered this program for less than two years.

## LEGAL ISSUES

### Charter Issues

Prior to the commencement of this project, legal implications were thoroughly explored. Consideration was given to concerns that could arise as a result of the Canadian Charter of Rights and Freedoms. Pursuant to these considerations, it was clearly established that participation on the electronic monitoring project must be voluntary. This addresses the Charter provision for mobility rights and an individual's right to liberty "and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

Legal issues regarding surveillance and an individual's right to privacy hinge on definition and the degree of state intrusion into an offender's personal life. Differentiation should be made between simple monitoring and intrusive surveillance. Monitoring can be construed as a form of intense supervision without eavesdropping or tracking while intrusive surveillance (which is not employed in the program) could be construed as including one or both of the above. The right to privacy, it is argued, is ensured by the fact that the use

of electronic monitoring does not cross this boundary and is voluntary. The issues of privacy should be balanced against the degree of personal intrusion into one's life when bound in jail, i.e. constant observation, capacity to inspect mail, conduct searches, monitor telephone calls, etc.

Temporary Absence

Participants on the Electronic Monitoring project were all subject to conditions of temporary absence. Statutory authority for release of inmates on Temporary Absence is provided for by the Correction Act (B.C.) section 17 and the Prison and Reformatories Act, section 8.01. Provisions of the temporary absence program allow for an administrative review of any consideration to re-issue, suspend or revoke a pass. This facilitates the return to custody of inmates who fail to comply with the conditions of their release outlined on their temporary absence pass.

Case Law

Throughout the course of the project a number of unique situations arose with regard to the establishment of new policies and procedures. As yet, there is no resulting

case law with regard to the admissability of computer generated documents or evidence required to support a charge of unlawfully at large. Based on similar experiences in the U.S. and research into Canadian Case Law regarding computer evidence, it would appear that documentation could provide "reasonable and probable grounds" however, further investigation would be required to provide concrete evidence for conviction. What has clearly been established is that computer evidence is not sufficient alone to bring about conviction; the burden of proof rests with Crown Counsel and the gathering of additional evidence beyond computer generated evidence must lie with Corrections staff. These circumstances would require attendance at the residence and all reasonable efforts to ensure that the offender was not present.

There were a number of cases where persons assessed suitable were not admitted to the project as a result of judicial discretion. If a particular judge expressed serious reservations about the program or a particular individual's participation, then this view was respected. It was not considered appropriate to countermand that recommendation. One such situation resulted in an appeal following which the County Court upheld the sentence adding

a recommendation that the time be served on electronic monitoring. The County Court ruled that the Provincial Court judge erred in suggesting he did not have Parliamentary authority with regard to electronic monitoring. The County Court cited the authority granted in the Correction Act and the Prison and Reformatories Act. While this case is not the ultimate word on this issue, this case supports the legal foundations on which the project was established.

## THE ELECTRONIC MONITORING ADVISORY COMMITTEE

The former Attorney General, the Honourable Brian R.D. Smith invited representatives from various interest groups to establish an Advisory Committee with respect to the Electronic Monitoring Project. The membership included:

The Elizabeth Fry Society
The John Howard Society
Citizens United for Safety and Justice
B.C. Civil Liberties Association
Mothers Against Drunk Drivers
B.C. Criminal Justice Association

This group was subsequently joined by The Salvation Army. Rhonda Latreille, representing the B.C. Criminal Justice Association chaired the Committee. The Project Director attended on behalf of the Corrections Branch.

The Advisory Committee met once per month in Vancouver. The mandate of the Committee was to offer advice to the Corrections Branch on matters relating to the use of EMS, and to complete two formal reports for the Assistant Deputy Minister, Ministry of Solicitor General.

Committee members toured the Vancouver Pretrial Services Centre, became familiar with EMS equipment and program criteria. In addition, they attended at the Lower

Mainland Regional Correctional Centre where the bulk of the intermittent custody population is normally housed, to compare the normal processing of intermittent inmates with the experience of EMS participation.

Meetings of this group resulted in the expression of a diverse range of perspectives and interests. This contributed to the cautious approach taken during the initial stages of the project. Case situations were shared with the Committee regularly, providing them with an opportunity to comment on procedures.

The tenure of the Committee was extended in conjunction with the project continuation to December 31, 1988.

A number of issues have been consistently addressed by participating agencies. There is an overall concern with regard to "widening the net." Specifically, it appears the concern is that this technology be applied only to those who have been sentenced to a period of incarceration. To further address this issue, most agencies have recommended strict guidelines be established to ensure that electronic monitoring be applied in a responsible manner to carefully screened and selected offenders. The committee recommended further study be undertaken before expanding to other potential offender populations.

Several agencies recommended the addition of alcohol treatment as a component of an EMS sentence because the bulk of the client population have evidenced alcohol problems, i.e. impaired driving. This is being contemplated by the Corrections Branch at this time and it would appear to require little or no change to the present EMS format.

It was generally agreed by the Committee that EMS is beneficial to participants by preventing contact with more serious offenders, enabling them to continue their employment while still actively involved with their families. Several agencies however, expressed concern about turning the home into a jail and the resulting impact on family members. This issue is examined more closely in the research paper provided by Steve Mainprize.

The consensus of the Committee is that EMS is effective and potentially cost efficient both to the justice system and the general public. They recommend the development of standards and guidelines to ensure that future use of EMS is consistent and appropriate.

## THE CANADIAN BAR ASSOCIATION

The Canadian Bar Association's Special Committee on Imprisonment and Release chaired by John Conroy, presented a resolution to their annual meeting in August of 1988 (see appendices). This resolution was accepted by the Association. As a result, the CBA commended British Columbia for its initiative in the use of electronic monitoring as an alternative to imprisonment. In addition, the resolution went on to call for legislative change to the Criminal Code in the areas of probation, bail, and intermittent sentences, to explicitly provide for and hence encourage the use of EMS. Their recommendation proposes that EMS be used as a sentencing option, with reviews of violations being heard in the public forum of a Court.

The endorsement of the Canadian Bar Association adds credibility to the project.

The British Columbia pilot project has operated within a very structured framework. First of all, it has only applied to sentenced inmates who are classified to the program. Although judges were given the opportunity to be well informed with regard to selection and performance of offenders, it is clearly <u>not</u> as formulated, a sentencing

option directly available to the court, i.e. it is an administrative decision applied to these already committed to jail. By employing this selection procedure we can avoid the experience in the United States where sentence length often triples in programs where EMS is a sentencing option.

A consistent concern of the Advisory Committee is the issue of "widening the net." The Canadian Bar Association's resolution might serve to "widen the net" in two ways:

1) by applying EMS to probation clientele; and
2) by allowing EMS to become a sentencing option.

The project has focussed on electronic monitoring as an "alternate form of incarceration" and as a result, success is equated with the ability to control people under formal court sanction without housing them in government funded facilities. This meets two objectives: in addition to being cost effective, it is consistent with the Law Reform Commission's recommendation to exercise "minimal intervention."

## COSTS/SAVINGS

### Economic Implications of EMS

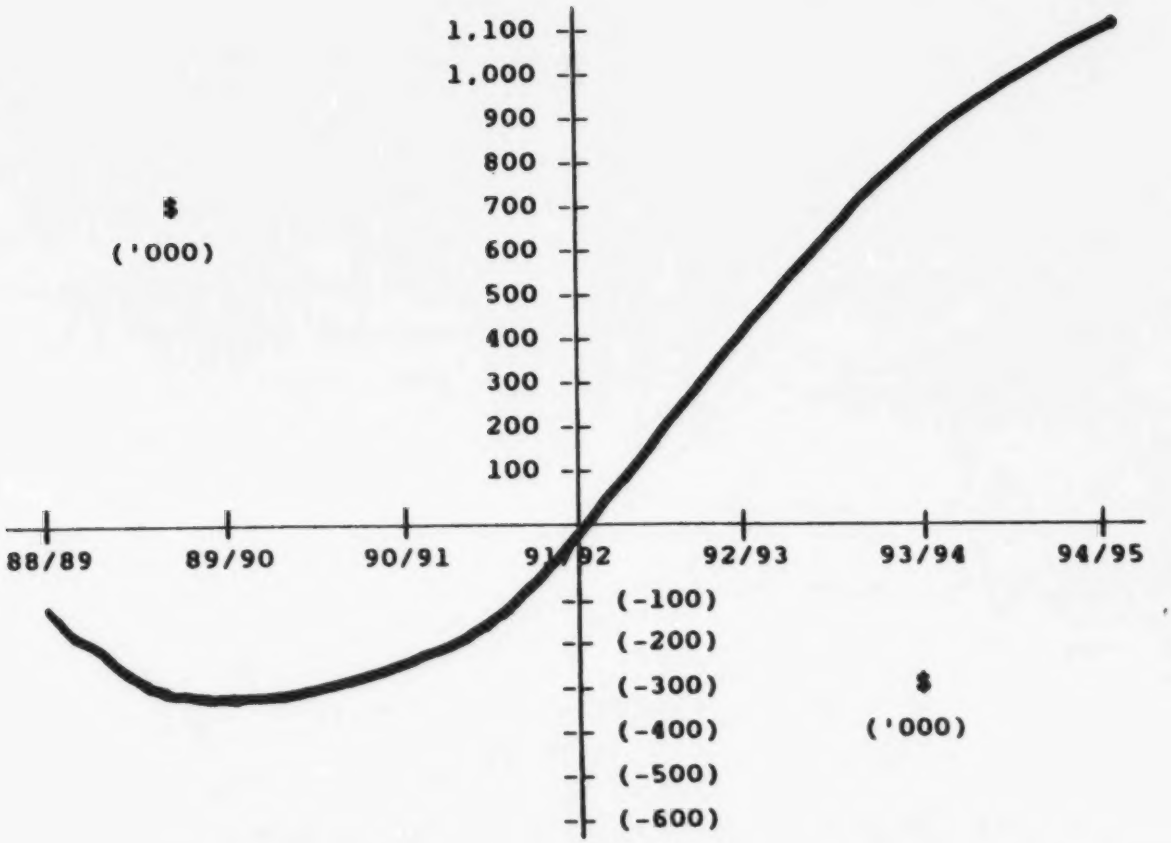
In order to examine the economic implications of EMS, it is necessary to consider the short-term (1 to 1 1/2 years), medium-term (2 to 4 years) and long-term (5-10 years) impact. Long-term cost implictions are written with the knowledge that many arguments could be made against the notion it presents. The stated purpose of this section, is to serve as a "think piece" related to the potential cost, and cost savings of a Provincial EMS Program.

To begin, it is necessary to expect that the EMS program will, as a result of start-up (i.e. equipment costs and lower volumes) initially, result in the Corrections Branch expecting more than would otherwise occur (see Graph E). Further, it is anticipated that several years will transpire before the expected full cost/benefit of a province-wide EMS program will be realized. EMS would, most probably, be phased in throughout the five regions over a two to three year period (see Graph F).

The current pilot project's location in the Vancouver Metro Region makes this a logical place from which to initiate a permanent program. The immediate effects of EMS have been

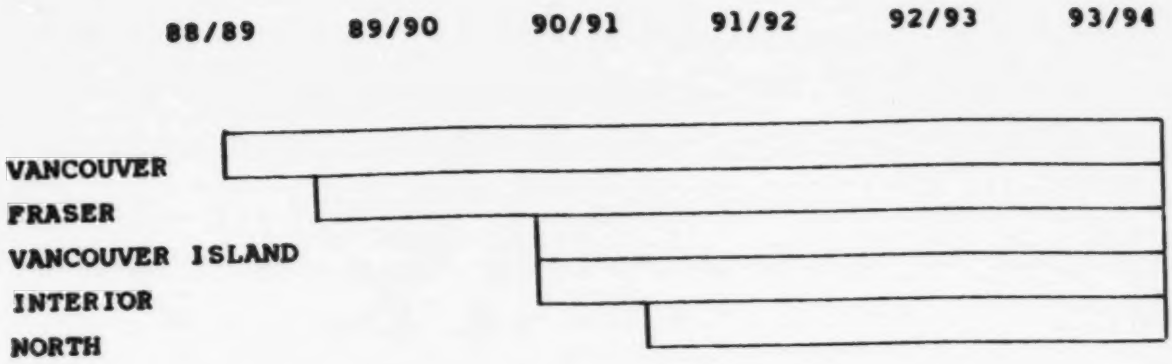
## PROJECTED COSTS/SAVINGS

Graph E



GRAPH F

PROPOSED PROVINCIAL IMPLEMENTATION



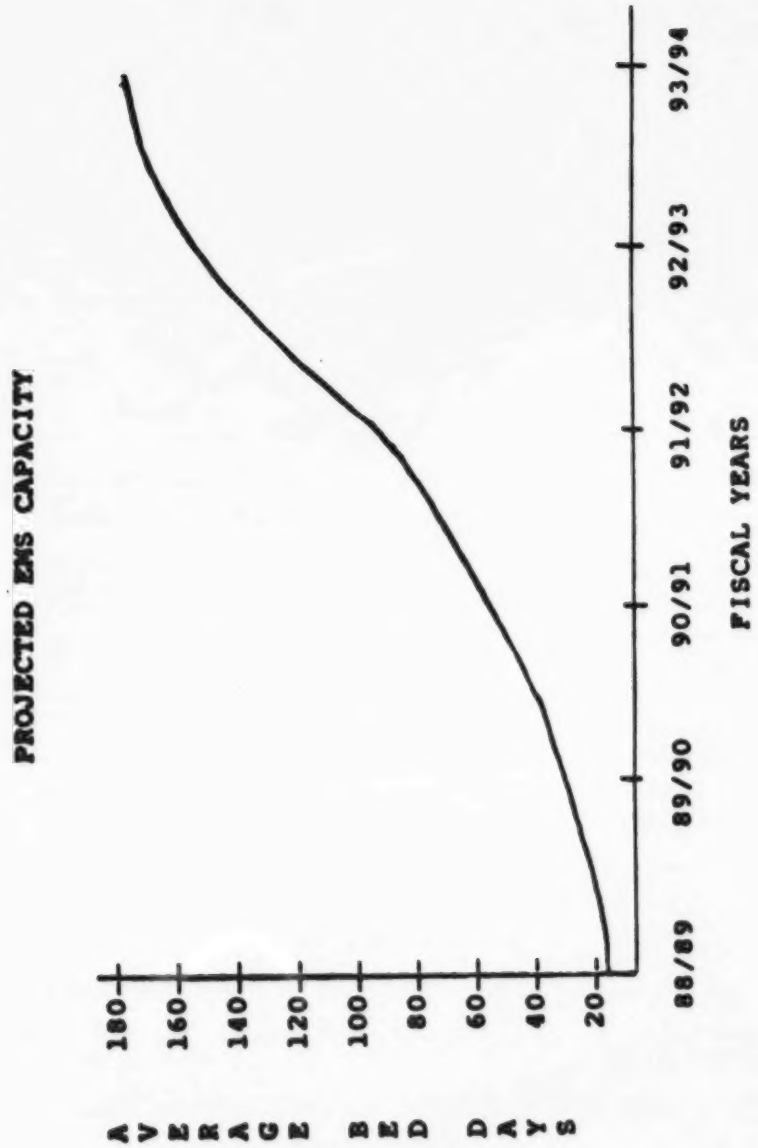

realized as the pilot project is currently reducing the Lower Mainland's intermittent custody population by 26 percent. By expanding the program into the adjacent Fraser Region and building upon the work undertaken during the course of the pilot, it is anticipated that a total 70 percent reduction in the intermittent population can be made within a year and a half of implementation (see Graph G). With an average daily population of 40, the EMS program would require about 10 full-time positions to operate, made up of 2 probation officers, 6 institutional officers and 2 administrative support staff. Twenty-four

hour backup and monitoring support would be provided by the institution hosting the program.

An additional short-term cost of the EMS program would be the necessity to staff positions to look after province-wide implementation of the program. An Implementation Co-ordinator, would be responsible for overall co-ordination of the program in educating and informing court staff, the judiciary, probation officers, lawyers and regional support staff regarding the program and technical issues surrounding EMS equipment. In addition, it is necessary to establish institutional classification procedures, train staff, and install terminals where necessary.

There would be an almost immediate reduction in work required by institutional staff as a result of the EMS Program. For example, it is anticipated that the 100 plus intermittent offenders entering L.M.R.C.C. every weekend could be reduced to 30 admissions per weekend within one year of full implementation of EMS in the Lower Mainland.

Projections indicate that in the medium term EMS will result in fairly significant cost savings for the Corrections Branch. In early 1991, L.M.R.C.C. is scheduled to close. That closure will mean that the 'elastic


PROJECTED EMS CAPACITY
AVERAGE BED DAYS
180
160
140
120
100
80
60
40
20
88/89
89/90
90/91
91/92
92/93
93/94
FISCAL YEARS

capacity' of the current jail system will be lost, since L.M.R.C.C. now has unused bedspace. Final decisions as to how the Corrections Branch will accommodate the intermittent population from 1991 onward in the Lower Mainland have not yet been made. It is clear that the operation of EMS and consequent reduction in the intermittent population will greatly reduce the impact of the L.M.R.C.C. closure with the corresponding loss of flexible bed space.

It is anticipated that the staffing efficiencies associated with EMS will improve over time as the daily volume of inmates on the program increases. With reduced travelling time between security checks (because of an increased density of EMS utilization), streamlined installation procedures and improvements in technology, it is assumed that the inmate per staff ratio for EMS will become leaner changing from the present 3 to 1, to 5 to 1 within a year after implementation. In the long run, inmate to staff ratios could go as high as 10 to 1.

The long term implications of EMS are more pervasive and ground breaking than the first two discussed timeframes. For one thing, if EMS is expanded to screen all offenders with three month sentences and less, it is

estimated that a 10 to 15 percent reduction in the average daily sentenced population could be achieved.

EMS has the potential to change how the Corrections Branch delivers some of its institutional services. While there are short term costs associated with the program, it is believed that the long term benefits will overtake costs within the third year of provincial implementation.

## RECOMMENDATIONS AND CONCLUSIONS

The primary objective of the Electronic Monitoring pilot project has been to test the technology, its ability to safely control offenders in the community and its potential usefulness to the Corrections Branch.

One cannot help but conclude that the technology is effective and this is an appropriate alternate means of accomplishing the Corrections Branch statutory mandate to administer sentences imposed by the court. There is a demonstrated potential for the Corrections Branch to utilize EMS for sentenced inmates. Neither the project nor this paper has addressed the potential application of EMS to other offender populations administered by the Corrections Branch (i.e. the remand population, bail supervision, parole, or terminal Temporary Absences).

If EMS is to be an alternate means of accommodating the present intermittent population, a number of specific issues must be addressed. It is necessary to establish a procedure in target locations whereby all potential intermittent sentences are pre-screened by Corrections Branch personnel to determine suitability for EMS participation. This will facilitate the slow process of

educating and changing the key sectors in the justice system. In addition, the Corrections Branch must clearly communicate to the justice system and the community that this new concept accommodates the "intent" of an intermittent sentence by confining offenders while maintaining their positive activities in the community.

The on-going process of education must also include a pro-active and assertive position with regard to the appropriate use of this technology. As the Canadian pioneers in the field the B.C. Corrections Branch can provide strong leadership with regard to effective and efficient use of EMS.

Studies of EMS programs throughout the U.S. repeatedly confirm that they have not closed down facilities or emptied jails. Over 70 programs are operating in the U.S. Almost all are operated at the county level and have been prompted by prison overcrowding. Many supervise offenders on probation or parole and many receive their clientele as direct sentences from the court. It is important to recognize the distinction between these programs and the one implemented in British Columbia. B.C.'s project has focussed on reducing the intermittent population, and potentially sentences of 90 days and under, on a

province-wide basis. During the pilot project there has been success in doing so without apparently "widening the net". Our results verify this. It is important to acknowledge the advantages of using EMS as a prison classification option rather than as a sentencing option. Rather than responding to overcrowded conditions, B.C. is seeking to maintain a high standard of correctional service delivery in addition to reducing the capital cost of building institutions. Given our long range need to accommodate the intermittent population presently housed at the soon to be abandoned L.M.R.C.C. site, it would appear that EMS may provide that potential. It is essential to identify the necessary resources and provide energetic motivation within the corrections community and the larger justice System over the next five years so that this goal can be achieved.

**APPENDIX I**

Resolution No.

Electronic Monitoring for Offender Supervision as an Alternative to Imprisonment

Source - Special Committee of the C.B.A. on Imprisonment and Release

Proposer - Chairman, John W. Conroy

Seconder -

WHEREAS it is desirable as a means of reducing the human and economic waste and cost of imprisonment to develop alternatives to imprisonment where imprisonment is unnecessary in the public interest; and

WHEREAS electronic monitoring for offender supervision is considered to be a safe and human alternative to imprisonment where imprisonment is not considered necessary in the public interest; and

WHEREAS the Corrections Branch of the Ministry of the Attorney General for the Province of British Columbia has initiated a pilot project involving the use of electronic monitoring for short term sentenced offenders using temporary absence passes in conjunction with

electronic monitoring and using existing provincial legislation; and

WHEREAS no other similar initiatives are being taken by the Government of Canada or the governments of other provinces; and

WHEREAS it is desirable that courts of law be empowered to impose electronic monitoring orders as an alternative to imprisonment only, in conjunction with the existing powers of the courts under the Criminal Code of Canada; and

WHEREAS it is desirable that express legislation or amendments to existing legislation be made to specifically authorize the imposition and revocation of electronic monitoring orders as an alternative to imprisonment by the courts and correctional authorities and that such legislation be consistent with and not in violation of the provisions of section 7 and section 1 of the Canadian Charter of Rights and Freedoms;

BE IT RESOLVED THAT the Canadian Bar Association:

(a) Go on record as supporting, in principle, the use of electronic monitoring of offenders as an alternative to imprisonment where imprisonment is not considered necessary in the public interest.

(b) That appropriate amendments be made to the bail (section 457(2)(a)-(d), section 457(4)(f)), probation (section 663(2)(h)) and intermittent sentencing (section 663(1)(c), 663(s)(h)) provisions of the Criminal Code to enable courts of law to impose electronic monitoring orders as an alternative to imprisonment in appropriate circumstances and to ensure that such orders are not made except in those cases where imprisonment is otherwise contemplated.

(c) That the Ministry of the Attorney General for the Province of British Columbia be commended for its initiative in the use of electronic monitoring orders as an alternative to imprisonment and that the Attorney Generals from other provinces and the Solicitor General of Canada be encouraged to initiate similar projects within their respective jurisdictions.

(d) That the Ministry of the Attorney General for the Province of British Columbia and any others considering the use of electronic monitoring as an alternative to imprisonment be encouraged to amend their legislation to expressly authorize such programs and to ensure that the content of such legislation is consistent with and not in violation of section 7 of

the Canadian Charter of Rights and Freedoms or, at least, is prescribed by law and can be demonstrably justified under section 1 of the Canadian Charter of Rights and Freedoms and, in particular, that such legislation expressly clarifies the eligibility criteria, the application process and procedure, the circumstances and procedure under which such orders can be suspended, terminated and revoked, and the penalties for violation of such orders.